

REMARKS

The Office Action dated July 25, 2007, has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1, 4, 6, 9, 11-15, and 19-22 have been amended to more particularly point out and distinctly claim the subject matter of the invention. Claims 23-24 have been added. No new matter has been added. Claims 1-24 are pending in the application and under consideration. Applicants wish to thank the Examiner for allowing claims 1-21.

On page 2 of the Office Action, claim 22 was rejected under 35 U.S.C. 112, first paragraph. The Office Action took the position that the base station is the only configuration in the claim, which does not appear in combination with another. The Office Action also took the position that a single means, in the claim, which cover every conceivable means for achieving the stated purpose, is non-enabling for the scope of the claim. Applicants respectfully traverse this rejection for at least the reasons as discussed below.

The Office Action referred to MPEP 2164.08(a) in support of this rejection. However, MPEP 2164.08(a) generally provides that a single means claim, for example, where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. MPEP 2164.08 also generally provides a single means claim which covered every conceivable means for achieving the stated purpose was held non-enabling for the scope

of the claim because the specification disclosed at most only those means known to the inventor. Thus, MPEP 2164.08(a) is only concerned with single means claims. It is respectfully noted that MPEP 2164.08(a) is also applicable to means-plus-function claims. Claim 22 recites that a base station of a communication system including non-means-plus function features, where sub-carriers are divided into eigenmodes, and configured to perform various tasks as recited in claim 22. Thus, it is respectfully submitted that MPEP 2164.08(a) cannot be applied to reject claim 22 because claim 22 is not a single means claim; it is not reciting “means” at all. Accordingly, this rejection is clearly improper and erroneous for at least reasons as discussed above. Applicants therefore respectfully request that claim 22 be found allowable and this application be passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: Additional Claim Fee Transmittal
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